

Serial No. 10/662,949

REMARKS/ARGUMENTS

Applicant's invention is recited in claims 17-21 of the pending application.

In the pending Official Action, the Examiner has provisionally rejected the pending claims under the judicially created doctrine of double patenting over claims 19-23 of copending Application No. 09/925,423 (the parent application hereof).

Additionally, the Examiner requires the original patent, or a statement as to loss or inaccessibility of the original patent, to be received before the present reissue application can be allowed.

Finally, the Examiner notes acceptance of the drawing changes received September 16, 2003.

TRAVERSE

1. Double Patenting

Applicant courteously traverses the provisional rejection for the reasons set forth hereinbelow.

As noted during a telephone discussion conducted August 27, 2004, with the Examiner, the double patenting rejection is erroneous as a matter of fact because the allegedly doubly patented claims 19-23 had been cancelled from the parent application. In view of the Examiner's indication at the time of the discussion that the file of the copending (parent) application, Serial No. 09/925,423 was not immediately available, applicant provides herewith three exhibits in evidence of cancellation of those claims.

EXHIBIT 1

Exhibit 1 provides a copy of an amendment filed under 37 CFR 1.312 in the parent application. The amendment was filed (by mail) on August 13, 2004, at the time of payment of the Issue Fee for the parent application.

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As is clearly noted from page 2 of the amendment provided in Exhibit 1, claims 19-23, which are included in claims 14-23, were cancelled by that amendment.

EXHIBIT 2

Exhibit 2 provides a copy of a date stamped receipt by the Office of Initial Patent Examination. As clearly confirmed thereby, the USPTO received the Amendment, as well as the Issue Fee, on August 15, 2003.

It is therefore clear that applicant had requested cancellation of claims 19-23 from the parent application and thus is not doubly claiming the subject matter thereof.

However, due to apparent internal error within the USPTO, the amendment of August 13, 2003 was not matched with the application for a period of time of almost one year. Nonetheless, the amendment was subsequently entered

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